

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Kerstein	Team: Squad #7	CCRB Case #: 201502769	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/27/2015 6:00 AM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 9/27/2016	EO SOL 9/27/2016	
Date/Time CV Reported Mon, 04/13/2015 2:03 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/13/2015 2:03 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Jamaal Miller	18339	939039	079 PCT
3. DTS Thomas Whalen	07869	902593	ESS 08

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Oscar Morales	07692	921609	ESS 08

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.DTS Thomas Whalen	Discourtesy: Det. Thomas Whalen spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Jamaal Miller	Discourtesy: PO Jamaal Miller spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Jamaal Miller	Abuse: PO Jamaal Miller refused to show a search warrant to § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On March 27, 2015, at approximately 6 p.m., officers executed a search warrant at § 87(2)(b) in Brooklyn and § 87(2)(b) and § 87(2)(b) (Allegation A). § 87(2)(b) alleged that throughout the course of the incident, Det. Thomas Whalen and PO Jamaal Miller spoke discourteously to him (Allegations B and C). § 87(2)(b) and § 87(2)(b) also alleged that they both asked to see the search warrant but were never shown a copy (Allegation D).

Mediation, Civil and Criminal Histories

A Notice of Claim inquiry was submitted on June 24, 2015, the results of which are still pending. This case was unsuitable for mediation. § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b) s criminal history could not be verified on the Office of Court Administration database because his NYSID number could not be obtained (B.R. 04). § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by or involving § 87(2)(b) and § 87(2)(b) (B.R. 02).
- Det. Whalen has been a member of the service for 22 years and has been the subject of four allegations from three previous complaints. § 87(2)(b), § 87(2)(g)
- PO Miller has been a member of the service for nine years and has been the subject of 45 allegations stemming from 13 prior complaints, 13 of the allegations have been substantiated. The relevant portions of PO Miller's previous complaints have been summarized below:
 - In CCRB# 200910783, a civilian alleged that PO Miller called her a "bitch." The allegation was closed as unsubstantiated.
 - In CCRB# 201210869, a civilian alleged that PO Miller stated, "I don't give a fuck about your students," "I don't have to answer shit," "You need to stop listening to these fucking street lawyers on the corner," and "I should break your wrist now." Both allegations were substantiated and the Board recommended charges.
 - In CCRB# 201307739, a civilian alleged that PO Miller stated, "We're not here to talk about the fucking constitution," and, "If you do anything funny, I'll fuck you up. I'll choke the shit out of you." Both the discourteous language and threat of force allegations were substantiated and the Board recommended charges.
 - In CCRB# 201310547, a civilian alleged that PO Miller threatened to "break [his] other fucking arm" and stated, "We're going to take off the handcuffs and see what you're made of." The allegation was substantiated and the Board recommended charges.
 - In CCRB# 201311584, a civilian alleged that PO Miller stated, "So what was all that shit you was talking," "This kid's a freaking pussy," "Get the fuck out of here. This kid's a fucking pussy." The allegation was substantiated and the Board recommended charges.

Findings and Recommendations

Explanation of Subject Officer Identification

- Although § 87(2)(b) alleged that he asked Det. Oscar Morales to see a copy of the search warrant, this allegation has been pleaded against PO Miller because Det. Morales, an ESU officer, would not have had a copy of the search warrant and the responsibility to present the warrant would be that of the investigating officer.
- § 87(2)(b) stated that the officer who stated, “Freeze mother fucker,” “Don’t fucking move,” “Shut the fuck up” and “What are you, a fucking hoarder?” held a ballistics shield, but was unable to otherwise physically describe him. Given that Det. Whalen acknowledged interacting with § 87(2)(b) and his assignment was shield operator, a discourtesy allegation has been pled against Det. Whalen.
- The officer who § 87(2)(b) requested to see the search warrant from and who also told him to “Shut the fuck up” was described as 6’2” tall, 240-pound black man in his mid-30s who wore glasses and had a slight mustache. § 87(2)(b) noted that this officer handcuffed him. The officer who is listed as handcuffing § 87(2)(b) is a white officer (NYPD Documents 02). Based on Det. Morales and Det. Whalen’s statements, the entire ESU team was likely in full uniform and wearing helmets, and since § 87(2)(b) was able to elaborately describe this officer, it is likely that the officer was not part of the entry team. PO Miller acknowledged being the first officer to enter the home after it was secured by ESU, and said he informed § 87(2)(b) to direct all questions and comments to him. Also, PO Miller is a 5’9” tall, 260-pound black man in his 30s with a slight mustache. Therefore, a discourtesy and abuse of authority allegation have been pled against PO Miller.

Allegation A: Abuse of Authority – Officers entered and searched

§ 87(2)(b) **in Brooklyn.**

It is undisputed that officers entered and searched § 87(2)(b) in Brooklyn.

Search warrant § 87(2)(b) issued by § 87(2)(b), authorized the officers to enter and search the location to recover heroin, heroin packaging and any other evidence of drug trafficking (NYPD Documents 01).

Officers who have obtained a judge-issued search warrant can enter the private residence listed on the search warrant, detain all perpetrators and seize contraband. Patrol Guide, Section 212-105 (B.R. 01).

§ 87(2)(g)

Allegation B: Discourtesy – Det. Thomas Whalen spoke discourteously to § 87(2)(b)

Allegation C: Discourtesy – PO Jamaal Miller spoke discourteously to § 87(2)(b)

Allegation D: Abuse of Authority – PO Jamaal Miller refused to show a search warrant to

§ 87(2)(b) **and § 87(2)(b)**

§ 87(2)(b) alleged that upon entering his apartment, Det. Whalen stated, “Freeze mother fucker” and “Don’t fucking move.” After he was handcuffed, § 87(2)(b) alleged that Det. Whalen and PO Miller told him to “Shut the fuck up” and Det. Whalen asked him if he was a “fucking hoarder” (See § 87(2)(b)’s CCRB Interview). § 87(2)(b) did not

mention the officers using profanity, but was asleep in the back of the apartment at the time the statements would have been made (See § 87(2)(b)'s CCRB History). § 87(2)(b) and § 87(2)(b) both alleged that they requested to see the search warrant but were never shown a copy.

Det. Whalen denied using profanity towards § 87(2)(b) and Det. Morales, who was also part of the entry team, also denied hearing Det. Whalen use profanity. PO Miller denied using profanity towards § 87(2)(b) and Det. Whalen denied hearing PO Miller use profanity towards § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Det. Morales, identified as the officer who § 87(2)(b) allegedly asked to see the search warrant from, denied that § 87(2)(b) asked him to see the search warrant. According to PO Miller, no officer told him that § 87(2)(b) or § 87(2)(b) had requested to see the search warrant but PO Miller stated that he showed each individual the search warrant and explained why he was there without being prompted by a request.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Pod: 7

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date